

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBIN J. SENIOR and U.S. POSTAL SERVICE,  
POST OFFICE, Philadelphia, Pa.

*Docket No. 96-2456; Submitted on the Record;  
Issued September 1, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a recurrence of disability on June 2, 1995 was causally related to her January 27, 1994 employment injury.

On January 31, 1994 appellant, then a 32-year-old mail carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that, on January 27, 1994 she injured her left knee after she slipped and fell on ice while delivering mail. Appellant worked limited duty from January 31 through February 7, 1994. The Office of Workers' Compensation Programs accepted appellant's claim for an effusion of the left knee.<sup>1</sup>

The record reflects that appellant had a back injury on July 9, 1994 which the Office accepted as an occupational disease lumbosacral strain. Appellant was cleared to return to full duty from the back injury on October 13, 1994.

On October 21, 1994 the employing establishment issued a Notice of Proposed Removal. Appellant exercised her Merit Service Protection Board rights and was subsequently awarded back pay for the period December 6, 1994 to June 1, 1995.

On February 5, 1996 appellant filed a notice of recurrence of disability and claim for continuation of pay (Form CA-2a) alleging that the recurrent disability to her left knee began on June 2, 1995. Appellant stated that as time went on, her injury progressed to the point that she needed surgery. Appellant's supervisor indicated that appellant never returned to duty after December 6, 1994.

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<sup>1</sup> The record reflects that on February 10, 1994 appellant filed two notices of traumatic injury and claim for continuation of pay (Form CA-1). In one Form CA-1 appellant stated that she twisted her left knee as she was getting out of a mail truck on February 8, 1994. In the other Form CA-1, appellant stated that she was reinjured on February 9, 1994 as her current light duty of getting in and out of mail trucks aggravated her left knee and ligaments. The record does not reflect that the Office took any action on these claims.

In a letter dated March 13, 1996, the Office advised appellant of the deficiencies in her claim and requested her to submit factual and medical evidence in support of the alleged recurrence of June 2, 1995 and to show a causal relationship to the original injury she sustained on January 27, 1994.

In a statement dated February 5, 1996, appellant stated that she injured her left knee when she slipped and fell while delivering mail on January 27, 1994. Appellant stated that from January 31, 1994 to July 19, 1995 her left knee deteriorated to the point that arthroscopic surgery was required. In another statement dated March 25, 1996, appellant stated that after the initial injury, she was assigned to case mail (standing and sitting), “tap the mail boxes,” and delivering express mail. She stated that “tapping mail boxes” involved getting in and out of the truck and picking up tubs of mail which weighed over 10 pounds. Appellant submitted medical records from the Veterans Administration Hospital documenting the treatments she received pertaining to her left knee, which included the drainage of water from her knee, an arthroscopic surgery performed on June 2, 1995, and a notation that appellant had arthritis in the left knee.

Appellant also submitted a Form CA-20 dated July 19, 1995 from Dr. M. Pepe, a resident orthopedic surgeon. Dr. Pepe stated that appellant injured her left knee on January 31, 1994 and that she had previously injured her knee while jumping out of an airplane in 1989. Dr. Pepe noted that appellant was totally disabled from June 2 through July 16, 1995 from a surgical arthroscopy of the left knee. Dr. Pepe stated that appellant could not resume mail carrying secondary to the diagnostic changes to the left knee and opined that stressing the left knee would cause the degenerative changes to progress further. Dr. Pepe further opined that the injury was “most likely aggravated by continued activity.”

In a decision dated June 13, 1996, the Office denied appellant’s claim for recurrent disability on the grounds that the evidence failed to establish that the claim for recurrence was causally related to her original work injury of January 27, 1994.

The Board finds that appellant has not established that she sustained a recurrence of disability on June 2, 1995 causally related to her January 27, 1994 employment injury.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of the reliable and probative evidence that the recurrence of the disabling condition for which she seeks compensation was causally related to the accepted employment injury.<sup>2</sup> As part of this burden, appellant must submit rationalized medical opinion evidence based on a complete and accurate factual and medical background showing a causal relationship between the current disabling condition and the accepted employment-related injury.<sup>3</sup> Causal relationship is medical in nature and, generally, can be established only by medical evidence.<sup>4</sup>

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<sup>2</sup> *Jessie Johnson, Jr.*, 39 ECAB 945 (1988).

<sup>3</sup> *Id.*

<sup>4</sup> *Armando Colon*, 41 ECAB 563, 565 (1990); *Ausberto Guzman*, 25 ECAB 362, 364 (1974).

Appellant sustained a January 27, 1994 employment injury which the Office accepted for effusion of the left knee. She worked limited duty from January 31 to February 7, 1994 and then resumed her regular employment duties. After a back injury on July 9, 1994, appellant was medically released to resume her regular employment duties on October 13, 1994. The record reflects that appellant stopped work on December 6, 1994. On February 5, 1996 appellant filed a notice of recurrence of disability beginning June 2, 1995, attributable to her January 27, 1994 traumatic injury.

In a recurrence of disability situation, generally no event other than the previous injury accounts for the disability.<sup>5</sup> A recurrence of disability is a spontaneous return to disability due to the original employment injury with no intervening causes involved.<sup>6</sup> In the instant case, appellant has submitted medical evidence indicating that her left knee developed subsequent problems after she was released from treatment for her accepted injury.

In support of her recurrence of disability claim, appellant filed a Form CA-20 from Dr. Pepe, a resident orthopedic surgeon. Dr. Pepe's report suggests that appellant's claimed recurrent knee condition may be aggravated by continued activity. He also stated that appellant had a previous injury to her left knee while jumping out of an air plane in 1989. As noted above, in a recurrence of disability, the previous injury is generally the sole cause of the disability. Although Dr. Pepe's report indicates that appellant was totally disabled from June 2 through July 16, 1995 and indicates that appellant's normal working conditions of mail carrying would place stress on the left knee and cause the degenerative changes to progress further, he failed to shed light on how appellant's current left knee condition, the arthroscopic surgery and the disability period relate to and resulted from the specific work incident of January 27, 1994. Since Dr. Pepe does not specifically relate appellant's knee condition to the January 27, 1994 accepted employment injury, his opinion is insufficient to meet appellant's burden of proof.

Although the hospital records indicate that appellant has degenerative changes in her left knee and state that "returning to heavy duty may cause the arthritis to progress," the record does not contain a medical statement which supports that appellant's condition is a result of an aggravation brought on by the original injury.

Since appellant bears the burden of establishing that the condition and disability for which compensation is claimed is due to the January 27, 1994 accepted employment injury,<sup>7</sup> the Office properly denied appellant's claim for a recurrence of disability.

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<sup>5</sup> See *William R. Lance*, 18 ECAB 422, 428 (1967).

<sup>6</sup> *Stephen J. Perkins*, 40 ECAB 1193 (1989).

<sup>7</sup> See *Clifford C. Hall*, 6 ECAB 509, 510 (1954).

The decision of the Office of Workers' Compensation Programs dated June 13, 1996 is hereby affirmed.

Dated, Washington, D.C.  
September 1, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member